

STATE OF CALIFORNIA

Public Utilities Commission  
San Francisco

**M e m o r a n d u m**

**Date:** June 8, 2004

**To:** The Commission  
(Meeting of June 9, 2004)

**From:** Alan LoFaso, Director  
Office of Governmental Affairs (OGA) — Sacramento

**Subject: SB 909 (Machado) Public water systems: mutual water  
companies: grant funds**  
As Amended June 23, 2004

**Legislative Subcommittee Recommendation:** Send attached letter

**Summary:** This bill makes privately owned public water systems regulated by the Commission and mutual water companies eligible for grants of state bond funds.

**Digest:** Existing Law, Assembly Bill (AB) 1747 (Chapter 240, Statutes of 2003) directed the Department of Health Services (DHS) and other participating agencies to develop grant solicitation and evaluation criteria to rank applications from public water systems (PWS) for the grant funds contained in Proposition 50, the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002.

**Analysis:** SB 909 would only be necessary if the Conference Committee currently working on the state budget adopts language prohibiting the Department of Health Services from awarding Proposition 50 grants, absent additional legislation.

The Legislative Subcommittee determined that opposing the action in the Conference Committee was the appropriate measure for the Commission to take to ensure that privately-owned water utilities customers benefit from the funds on an equal basis, which their tax dollars also support.

**LEGISLATIVE STAFF CONTACT**

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June 10, 2004

The Honorable Darrell Steinberg, Chair  
The Honorable Judy Chu  
The Honorable Rick Keene  
State Capitol  
Sacramento, CA 95814

The Honorable Wes Chesbro, Chair  
The Honorable Dede Alpert  
The Honorable Ross Johnson

**Re: Item 4160: Proposition 50 Grants for Regulated Private Water Utilities**

Dear Conference Committee Members:

The California Public Utilities Commission is opposed to budget bill language or trailer bill language that would prohibit the Department of Health Services (DHS) from awarding Proposition 50 grant funds to privately-owned, Commission regulated water utilities, without further action by the Legislature.

The Commission regulates one hundred forty-four, private, investor-owned water utilities that serve approximately twenty percent of the state's population. The ever-increasing problems and prohibitive costs associated with limited water supplies, water contamination, and plant security face all water companies. Accordingly, Proposition 50 grants and loans are as much a critically needed safety net for the customers of our investor-owned utilities as it is for their counterparts served by municipal public water systems. We write to urge you to help ensure that the customers of Commission-regulated water systems are allowed to benefit from the full promise of Proposition 50.

We understand that the main concern expressed by those who object to grant funding for Commission-regulated utilities is that investor-owned utilities should not be able to profit in any way from the receipt of grants under this bond measure. Certainly, this Commission can and will develop a regulatory structure that preserves the public-interest integrity of such funds; no utility will receive a windfall and no shareholder will derive a profit from the receipt or use of public funds. In fact, some of that structure is already in place.

Under our present regulations, utility shareholders receive no profit from the construction of utility plant that is funded by loan proceeds or non-refundable contributions (eg. from land developers). Upon notification that grants will be available to Commission-regulated public water systems, we shall promptly establish eligibility requirements that further extend our present policies and ensure that facilities or programs funded by grant funds will not profit shareholders even if, years later, the utility itself or the individual, grant-funded facility is subsequently leased or sold. All proceeds of the sale or lease of publicly funded assets shall be preserved for the benefit of utility ratepayers.

Some opponents have argued that because investor-owned utilities have greater access to capital, they should not be allowed to compete for Proposition 50 grants. This argument is misplaced. Proposition 50 benefits have not been designated as need-based but even if they were, it would be

hard to find more impoverished water systems than some of our investor-owned companies with less than one hundred customers. Most of our one hundred twenty-eight small water companies have less than 500 customers. The ability of such utilities to attract capital can be virtually non-existent. Furthermore, such a utility's 500 customers, especially those on fixed incomes, can ill afford to underwrite the accelerating cost of water treatment facilities and utility security measures. The real availability of capital to investor-owned utilities is pretty much limited to our ten largest water companies, but even our largest companies serve low-income districts where customers pay the actual cost of the service.

In the final analysis, in investor-owned as well as municipal water systems, it is the customer that carries the burden, the ratepayer who pays the bills. Without the aid of grant funds, the customers of Commission-regulated utilities, particularly those smaller ones, face the prospect of rate increases of a daunting magnitude in order to meet water quality and safety standards. The inability of consumers of Commission-regulated water utilities to avail themselves of benefits provided by grants funded by Proposition 50 may deprive many of them of affordable, clean, safe water supplies. These consumers pay taxes that support Proposition 50 funding and should be able to gain its benefit.

Finally, we note that the DHS will have a significant role in administering the Proposition 50 grants and loans. The Commission and DHS have carefully shared and fostered a supportive and complimentary relationship to best ensure the achievement of our mutual goal of having Commission-regulated water systems provide a reliable, safe and healthy supply of water to customers. The Commission and DHS have perpetuated and preserved a long-standing, Memorandum of Understanding which is reflected repeatedly in our cooperative efforts to ensure that our governing laws and regulations compliment our mutual goals and nurture our continued respect. Therefore, this Commission will work easily with DHS, in developing and enforcing guidelines for application of grant funds to investor-owned water systems. The Commission and DHS already do that on a regular basis with respect to the State Revolving Fund and other state-assisted loan programs that are now distributed to private water companies.

Proposition 50 promised to benefit all Californians. We urge the Conference Committee to reject any budget bill or trailer language that limits the availability of Proposition 50 funds of Commission-regulated water utilities. Please support equal treatment for water utility customers.

Very truly yours,